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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,657	01/08/2002	Jeff Skillern	SKIL-001CON	6012
29698	7590	05/05/2006	EXAMINER	
LEIGH P. GREGORY ATTORNEY AT LAW PO BOX 168 CLEMSON, SC 29633-0168			CRONIN, STEPHEN K	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/043,657

Applicant(s)

SKILLERN, JEFF

Examiner

Stephen K. Cronin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13, 16, 17, 19 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Moser 4,196,817.

Moser teaches an insulated portable beverage container comprising a flexible pouch 20 with an inner compartment/sleeve 30, an outer compartment/sleeve 26, a cooling thermal capacitance medium (I), and a drinking conduit 35.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made:

4. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moser 4,196,817 in view of Motsenbocker 4,420,097.

To provide the conduit of Moser with a valve in the manner as taught by Motsenbocker is old and well known to one of ordinary skill in the art.

5. Claims 13, 15-17, 19-22 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motsenbocker 4,420,097 in view of Padamsee 5,398,848.

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Motsenbocker teaches a portable liquid dispenser with carrying case 41, a strap 38, a gel thermal capacitance medium 27, an inner sleeve 25, and outer sleeve 14, a conduit 16, and a valve 18. The difference between applicants invention and the invention of Motsenbocker is that Motsenbocker teaches that the thermal capacitance medium is contained within the inner sleeve instead of between the inner and outer sleeve as claimed by applicant. Padamsee teaches a similar portable liquid container comprising an inner sleeve 18 for containing a liquid and an outer sleeve 66. A thermal capacitance medium is contained between the two sleeves. To reverse the location of the thermal capacitance medium and the consumable liquid of Motsenbocker in the manner as taught by Padamsee would have been obvious to one having ordinary skill in the art at the time the invention was made, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Motsenbocker 4,420,097 in view of Padamsee 5,398,848 as applied to claims 13, 15-17 and 19-22 above, and further in view of Van Turnhout 6,044,201.

Motsenbocker as modified above teaches the claimed invention except that the gel thermal capacitance medium is taught as a cooling medium only and not as a cooling and heating medium. Van Turnhout discloses a container with a gel thermal medium which is disclosed as capable of being heated or cooled. It would have been obvious to one of ordinary skill in the art to replace the gel of Motsenbocker with the gel taught by

Van Turnhout since both are directed to gels providing a cooling medium and further to obtain the benefit of the gel being used as a heating medium.

***Response to Arguments***

7. Applicant's arguments with respect to claims 13, 15-22 and 27 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to Stephen K. Cronin at telephone number 571-272-4536.

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A handwritten signature in black ink, appearing to read 'SKC', followed by a long horizontal line extending to the right.

Stephen K. Cronin

SPE

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